

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAN P. HOLICK, JR., STEVEN MOFFITT,
JUSTIN MOFFITT, GURWINDER SINGH,
JASON MACK, WILLIAM BURRELL,
and TIMOTHY M. PRATT,

Plaintiffs,

Case No. 1:12-CV-00584
(NAM/RFT)

v.

NOTICE OF APPEAL

CELLULAR SALES OF NEW YORK, LLC, and
CELLULAR SALES OF KNOXVILLE, INC.,

Defendants.

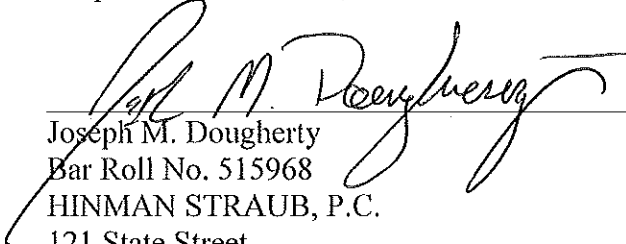
PLEASE TAKE NOTICE that Cellular Sales of New York, LLC and Cellular Sales of Knoxville, Inc., the defendants in the above-named case, hereby appeal to the United States Court of Appeals for the Second Circuit from the District Court's Memorandum-Decision and Order, Docket Entry No. 131, entered in Case No. 1:13-CV-0738 on the 21st day of October 2014, in which the United States District Court for the Northern District of New York denied Defendants' Amended Motion to Compel Individual Arbitrations of and to Dismiss or Stay Plaintiff Pratt's and Plaintiff Burrell's Claims. Defendants bring this appeal pursuant to Section 16 of the Federal Arbitration Act, 9 U.S.C. § 16(a)(1)(C).

The District Court entered the Memorandum-Decision and Order in Case No. 1:13-cv-00738 (NAM/RFT). However, after the District Court entered the Memorandum-Decision and Order, the District Court consolidated that case with this action and instructed the parties that all future filings must be filed only in the lead case, Case No. 1:12-CV-00584, and that no further filings shall be docketed in Case No. 1:13-CV-0738. (*See* Docket Entry No. 132 entered in Case No. 1:13-cv-00738 and Docket Entry No. 49 entered in Case No. 1:12-CV-00584). Accordingly,

consistent with the District Court's instructions, Defendants have filed this Notice of Appeal in this action, the lead case, Case No. 1:12-CV-00584.

Dated: Albany, New York
November 19, 2014

Respectfully submitted,



Joseph M. Dougherty
Bar Roll No. 515968
HINMAN STRAUB, P.C.
121 State Street
Albany, NY 12207
Phone: (518) 436-0751
Fax: (518) 436-4751
E-mail: jdougherty@hinmanstraub.com

C. Larry Carbo, III.
SBOT #24031916
larry.carbo@chamberlainlaw.com
Ryan Cantrell
SBOT #24055259
ryan.cantrell@chamberlainlaw.com
Julie R. Offerman
SBOT #24070360
julie.offer@chamberlainlaw.com
CHAMBERLAIN, HRDLICKA, WHITE, WILLIAMS
& AUGHTRY
1200 Smith Street, Suite 1400
Houston, Texas 77002
(713) 654-9630
(713) 658-2553 [fax]
(Pro Hac Vice)

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2014, I electronically filed the foregoing with the Clerk of the District using the CM/ECF system, which sent notification of such filing to the following:

1. Ronald G. Dunn
Daniel A. Jacobs
Gleason, Dunn Law Firm
Attorneys for Plaintiffs
40 Beaver Street
Albany, NY 12207



Joseph M. Dougherty

LEAD

U.S. District Court
Northern District of New York - Main Office (Syracuse) [LIVE - Version 6.1]
(Albany)
CIVIL DOCKET FOR CASE #: 1:12-cv-00584-NAM-RFT

Holick et al v. Cellular Sales of New York, LLC et al
Assigned to: Senior Judge Norman A. Mordue
Referred to: Magistrate Judge Randolph F. Treece
related Case: 1:12-cv-01754-NAM-RFT
Case in other court: 2nd Circuit, 13-01294
Cause: 29:201 Fair Labor Standards Act

Date Filed: 04/04/2012
Jury Demand: Plaintiff
Nature of Suit: 710 Labor: Fair
Standards
Jurisdiction: Federal Question

Plaintiff

Jan P. Holick, Jr.
on behalf of themselves and all others
similarly situated

represented by **Daniel A. Jacobs**
Gleason, Dunn Law Firm
40 Beaver Street
Albany, NY 12207
518-432-7511
Fax: 518-432-5221
Email: djacobs@gdwo.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
Gleason, Dunn Law Firm
40 Beaver Street
Albany, NY 12207
518-432-7511
Fax: 518-432-5221
Email: rdunn@gdwo.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Steven Moffitt
on behalf of themselves and all others
similarly situated

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Justin Moffitt
on behalf of themselves and all others
similarly situated

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Gurwinder Singh
on behalf of themselves and all others
similarly situated

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Jason Mack
on behalf of themselves and all others
similarly situated

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Timothy M. Pratt

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

William Burrell

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Cellular Sales of New York, LLC

represented by

Charles L. Carbo , III
Chamberlain, Hrdlicka Law Firm
1200 Smith Street
Suite 1400
Houston, TX 77002
713-658-1818
Fax: 713-658-2553
Email:
Larry.carbo@chamberlainlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joseph M. Dougherty
Hinman, Straub Law Firm - Albany
Office
121 State Street
Albany, NY 12207
518-436-0751
Fax: 518-436-4751
Email: jdougherty@hinmanstraub.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ryan O. Cantrell
Chamberlain, Hrdlicka Law Firm
1200 Smith Street
Suite 1400
Houston, TX 77002
713-658-2536
Fax: 713-658-2253
Email:
ryan.cantrell@chamberlainlaw.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Defendant

Cellular Sales of Knoxville, Inc.

represented by **Charles L. Carbo , III**
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Joseph M. Dougherty
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ryan O. Cantrell

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/21/2014	<u>49</u>	ORDER that this case reopened in accordance with the Second Circuits Mandate vacating the Judgment entered on March 29, 2013 (Dkt. No. 39); in the interest of economy and avoidance of unnecessary duplication of effort and litigation expense, this action 1:12-CV-0584 (NAM/CFH) is hereby consolidated with 1:13-CV-0738 (NAM/RFT). This action, 1:12-CV-0584 (NAM/CFH), is now designated as the lead case and the action subsequently commenced by the pltfs, 1:13-CV-0738 (NAM/RFT), is designated as the member case, pursuant to Rule 42(a) of the Fed. R. Civ. P., solely for purposes of pretrial proceedings, without prejudice to the right of one or both parties to later apply to the assigned trial judge for an order consolidated cases for trial. ALL FUTURE FILINGS MUST BE FILED ONLY IN THE LEAD CASE, 1:12-CV-0584 (NAM/CFH). NO FURTHER FILINGS SHALL BE DOCKETED IN THE MEMBER CASE, 1:13-CV-0738 (NAM/RFT); and that in view of the substantial involvement of U.S. Magistrate Judge Randolph Treece in handling discovery matters in the member case, 1:13-CV-0738 the Clerk of the Court is directed to assign lead case, 1:12-CV-0584 (NAM/CFH) to U. S. Magistrate Judge Treece. Signed by Senior Judge Norman A. Mordue on 10/21/2014. (see) (Entered: 10/21/2014)
05/28/2014	<u>48</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC re <u>47</u> Memorandum of Law (Carbo, Charles) (Entered: 05/28/2014)
05/28/2014	<u>47</u>	MEMORANDUM OF LAW <i>REPLY IN FURTHER SUPPORT OF DEFENDANTS' BRIEF ADDRESSING THE IMPACT OF THE SECOND CIRCUIT'S MANDATE</i> filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Carbo, Charles) (Entered: 05/28/2014)
05/21/2014	<u>46</u>	LETTER BRIEF <i>addressing the impact of the Second Circuit's mandate [Dkt 43]</i> by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. (Jacobs, Daniel) (Entered: 05/21/2014)
04/30/2014	<u>45</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC (Dougherty, Joseph) (Entered: 04/30/2014)
04/30/2014	<u>44</u>	MEMORANDUM OF LAW re 43 Order,,,, <i>directing the Defendants' to submit a brief addressing the impact of the Second Circuit's mandate (Dkt. 42, Apr. 8, 2014)</i> filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Dougherty, Joseph) (Entered: 04/30/2014)
04/17/2014	43	TEXT ORDER - The Court directs the parties to submit briefs addressing the impact of the Second Circuit's mandate (Dkt. No. 42, Apr. 8, 2014), see Holick v. Cellular Sales of New York, LLC, 2014 WL 961083 (2d Cir. Mar. 13, 2014), on defendants' "Motion to dismiss for lack of subject matter jurisdiction

		pursuant to Rule 12(b)(1), or, in the alternative, to compel mediation and stay the proceedings pending mediation" (Dkt. No. 8). The briefing schedule is as follows: Defendants' Memorandum of Law shall be filed on or before April 30, 2014; Plaintiffs' Memorandum of Law shall be filed on or before May 21, 2014; and any reply by Defendants shall be filed on or before May 28, 2014. The parties may also, if they so desire, briefly address their positions on the impact of the Second Circuit's mandate on the motions (Dkt. Nos. 10, 18, 27, and 37) dismissed as moot in the Courts Memorandum-Decision and Order (Dkt. No. 38). Endorsed by Senior Judge Norman A. Mordue on 4/17/14. (jlr) (Entered: 04/17/2014)
04/08/2014	<u>42</u>	MANDATE of USCA, issued 4/7/14, as to plaintiffs' <u>40</u> Appeal: the appeal is dismissed in part as moot, and to the extent not dismissed, the judgment is VACATED and the case REMANDED.(cbm) (Entered: 04/08/2014)
04/29/2013		USCA Case Number is 13-1294 for pltf's' <u>40</u> Appeal. (cbm,\) (Entered: 04/29/2013)
04/08/2013	<u>41</u>	ELECTRONIC NOTICE AND CERTIFICATION sent to US Court of Appeals, re: <u>40</u> Notice of Appeal. (Attachments: # <u>1</u> Civil Appeals Packet) (see) (Entered: 04/08/2013)
04/08/2013	<u>40</u>	NOTICE OF APPEAL as to <u>38</u> Order and <u>39</u> Judgment by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. Filing fee \$ 455, receipt number 0206-2512804. (Dunn, Ronald) (Entered: 04/08/2013)
03/29/2013	<u>39</u>	JUDGMENT granting defts' motion to compel arbitration and dismissing the complaint without prejudice, pursuant to the <u>38</u> Memorandum-Decision & Order of the Honorable Norman A. Mordue. (see) (Entered: 03/29/2013)
03/29/2013	<u>38</u>	MEMORANDUM-DECISION & ORDER that defendants motion to dismiss (Dkt. #8) pursuant to Fed. R. Civ. P. 12 (b) (1) for lack of subject matter jurisdiction is DENIED; that defendants alternative motion (Dkt. # 8) to compel arbitration is GRANTED; that the complaint is dismissed without prejudice; that in light of the Courts determination to grant defendants motion to compel arbitration and dismiss the complaint, it is further ORDERED that defendant CSOKIs motion to dismiss for lack of personal jurisdiction (Dkt. #10) is DENIED as moot; that plaintiffs motion for conditional certification of a collective action under the FLSA (Dkt. #27) is DENIED as moot; and that the parties remaining pending motions, Dkts # 18 and #37 are DENIED as moot. Signed by Judge Norman A. Mordue on 3/28/2013. (see) (Entered: 03/29/2013)
12/03/2012	<u>37</u>	Letter Motion from Daniel A. Jacobs for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting That this Court consider the Consent Order in Bolletino, et al. v. Cellular Sales of Knoxville submitted to Judge Mordue . (Attachments: # <u>1</u> Stipulation and Order in Bolletino v. Cellular Sales of Knoxville)(Jacobs, Daniel) (Entered: 12/03/2012)
11/02/2012	<u>36</u>	Letter Motion from Plaintiffs Counsel for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh

		requesting Seeking consideration of new legal authority submitted to Judge Mordue . (Attachments: # <u>1</u> Newbanks and Walton v. Cellular Sales of Knoxville, et al. (3:12-1420-CMC) Order Granting Plaintiffs' Request for Jurisdictional Discovery)(Jacobs, Daniel) (Entered: 11/02/2012)
11/02/2012	<u>35</u>	Letter Motion from Plaintiffs for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting Seeking Consideration of new legal authority in pending motion to dismiss submitted to Judge Mordue . (Attachments: # <u>1</u> Newbanks and Walton v. Cellular Sales of Knoxville, et al.; Order Granting Motion to Amend Complaint and Denying Motion to Compel Arbitration)(Jacobs, Daniel) (Entered: 11/02/2012)
10/10/2012	<u>34</u>	CERTIFICATE OF SERVICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh re <u>33</u> Reply to Response to Motion, (Jacobs, Daniel) (Entered: 10/10/2012)
10/09/2012	<u>33</u>	REPLY to Response to Motion re <u>27</u> MOTION for Conditional Certification of FLSA Collective Action and Equitable Tolling filed by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. (Attachments: # <u>1</u> Appendix A to Reply Brief, # <u>2</u> Affirmation with Exhibit AA)(Jacobs, Daniel) (Entered: 10/09/2012)
10/09/2012		TEXT ORDER granting the <u>32</u> Letter Motion from Daniel A. Jacobs, Esq. for plaintiffs requesting Leave pursuant to Local Rule 7.1(b)(2) to submit a Reply in Response to Defendants' Opposition to previously filed Motion. The reply shall be filed 10/9/12 and shall be no longer than 10 pages in length. Signed by Judge Norman A. Mordue on 10/9/12. (jlr) (Entered: 10/09/2012)
10/02/2012	<u>32</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting Leave pursuant to Local Rule 7.1(b)(2) to submit a Reply in Response to Defendants' Opposition to previously filed Motion submitted to Judge Mordue . (Jacobs, Daniel) (Entered: 10/02/2012)
10/01/2012	<u>31</u>	MEMORANDUM OF LAW re <u>27</u> Motion for Miscellaneous/Other Relief,,, filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) B, # <u>3</u> Exhibit(s) C, # <u>4</u> Exhibit(s) D, # <u>5</u> Exhibit(s) E, # <u>6</u> Exhibit(s) F, # <u>7</u> Exhibit(s) G, # <u>8</u> Exhibit(s) H, # <u>9</u> Unpublished Case, # <u>10</u> Unpublished Case, # <u>11</u> Unpublished Case, # <u>12</u> Unpublished Case, # <u>13</u> Unpublished Case, # <u>14</u> Unpublished Case, # <u>15</u> Unpublished Case, # <u>16</u> Unpublished Case, # <u>17</u> Unpublished Case)(Carbo, Charles) (Entered: 10/01/2012)
09/07/2012		Reset Response to motion Deadline as to Pltf's <u>27</u> MOTION for Conditional Certification of FLSA Collective Action and Equitable Tolling . Deft's Response to Motion is now due by 10/1/2012. (sfp,) (Entered: 09/07/2012)
09/07/2012	<u>30</u>	REQUEST AND ORDER granting <u>28</u> Letter Request for extension of time to 10/1/12 for deft's to file their reponse to pltf's <u>27</u> Motion. Signed by Judge Norman A. Mordue on 9/7/12. (sfp,) (Entered: 09/07/2012)
09/04/2012	<u>29</u>	

		ORDER REASSIGNING CASE. Case reassigned to Magistrate Judge Christian F. Hummel for all further proceedings. Magistrate Judge David R. Homer no longer assigned to case. Signed by Chief Judge Gary L. Sharpe on 9/4/2012. (dpk) (Entered: 09/05/2012)
08/27/2012		CLERK'S CORRECTION OF DOCKET ENTRY: Document <u>28</u> was modified to correctly reflect it is a Letter Request/Motion for an Extension of Time. Document was incorrectly filed as a formal motion. (amt) (Entered: 08/27/2012)
08/27/2012	<u>28</u>	LETTER REQUEST/MOTION for Extension of Time to File Response/Reply as to <u>27</u> MOTION for Conditional Certification of FLSA Collective Action and Equitable Tolling filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. Motions referred to David R. Homer. (Dougherty, Joseph) Modified on 8/27/2012 (amt). (Entered: 08/27/2012)
08/24/2012	<u>27</u>	MOTION for Conditional Certification of FLSA Collective Action and Equitable Tolling Motion Hearing set for 10/3/2012 10:00 AM in Syracuse before Judge Norman A. Mordue Response to Motion due by 9/17/2012 filed by Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Gurwinder Singh. (Attachments: # <u>1</u> Affirmation of Daniel A. Jacobs, Esq. in Support of Motion, # <u>2</u> Exhibit(s) AA to Jacobs Affirmation, # <u>3</u> Exhibit(s) BB to Jacobs Affirmation, # <u>4</u> Exhibit(s) CC to Jacobs Affirmation, # <u>5</u> Exhibit(s) DD to Jacobs Affirmation, # <u>6</u> Declaration of Jan P. Holick, Jr. in Support of Motion, # <u>7</u> Exhibit(s) A-D to Holick Declaration, # <u>8</u> Exhibit(s) E-H to Holick Declaration, # <u>9</u> Declaration of Steven Moffitt in Support of Motion, # <u>10</u> Declaration of Justin Moffitt in Support of Motion, # <u>11</u> Declaration of Gurwinder Singh in Support of Motion, # <u>12</u> Declaration of Timothy M. Pratt in Support of Motion, # <u>13</u> Declaration of William Burrell in Support of Motion, # <u>14</u> Memorandum of Law in Support of Motion, # <u>15</u> Appendix to Memorandum of Law, # <u>16</u> Certificate of Service) Motions referred to David R. Homer. (Jacobs, Daniel) (Entered: 08/24/2012)
08/23/2012	<u>26</u>	NOTICE by William Burrell <i>Consent to Sue under FLSA</i> (Jacobs, Daniel) (Entered: 08/23/2012)
08/21/2012	<u>25</u>	NOTICE by Timothy M. Pratt <i>Consent to Sue under FLSA</i> (Jacobs, Daniel) (Entered: 08/21/2012)
08/01/2012	<u>24</u>	ORDER re Telephone Conference. ORDERED that plaintiffs' various requests for relief are DENIED except that it is noted that plaintiffs may move for provisional class certification whenever they deem it appropriate and such motion shall proceed before the assigned district court judge according to the normal motion practice in this District. (Motions terminated: <u>21</u> Letter Motion) Signed by Magistrate Judge David R. Homer on 7/31/2012. (dpk) (Entered: 08/01/2012)
07/30/2012		Minute Entry for proceedings held re <u>21</u> and <u>22</u> with Magistrate Judge David R. Homer: A telephone conference was held on-the-record on 7/30/2012. Appearances: Daniel Jacobs, Joseph Doherty, Charles Carbo. Arguments were heard. Plaintiffs' various requests were denied except plaintiffs were granted leave to file motion for provisionsl class certification. A written order will enter.

		(Court Reporter Theresa Casal) (CRD Lynda Hennessy) (lah,) (Entered: 08/01/2012)
07/26/2012	<u>23</u>	ORDER granting <u>19</u> Motion for Limited Admission Pro Hac Vice. Signed by Magistrate Judge David R. Homer on 7/20/2012. (dpk) (Entered: 07/26/2012)
07/23/2012		TEXT NOTICE re <u>21</u> and <u>22</u> . A Telephone Conference is set for 7/30/2012 at 11:00 AM with Magistrate Judge David R. Homer. Please use the Court's DIAL-IN # 1-888-684-8852 ACCESS CODE 4750370 SECURITY CODE 1234. (lah,) (Entered: 07/23/2012)
07/20/2012	<u>22</u>	RESPONSE TO LETTER BRIEF filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC as to <u>21</u> Letter Request/Motion, filed by Jan P. Holick, Jr., Jason Mack, Gurwinder Singh, Justin Moffitt, Steven Moffitt . (Carbo, Charles) (Entered: 07/20/2012)
07/20/2012	<u>21</u>	Letter Motion from Daniel A. Jacobs, Esq. for Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Gurwinder Singh requesting Reconsideration of Adjournment of Rule 16 Conference submitted to Judge Homer . (Jacobs, Daniel) (Entered: 07/20/2012)
07/20/2012		TEXT ORDER re <u>20</u> Letter Request. The Rule 16 Conference previously set for 8/15/2012 at 10:00 a.m. is ADJOURNED WITHOUT DATE pending decision on the dispositive motion before the District Court. Authorized by Magistrate Judge David R. Homer on 7/20/12. (lah,) (Entered: 07/20/2012)
07/19/2012	<u>20</u>	Letter Motion from C. Larry Carbo III for Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC requesting that the Rule 16 conference, Rule 26 conference, and filing of Case Management Plan be adjourned until the pending motions are decided . (Carbo, Charles) (Entered: 07/19/2012)
07/19/2012	<u>19</u>	MOTION for Limited Admission Pro Hac Vice of Ryan Oliver Cantrell Filing fee \$100, receipt number 0206-2257140. filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. Motions referred to David R. Homer. (Dougherty, Joseph) (Entered: 07/19/2012)
07/16/2012	<u>18</u>	Letter Motion for Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Gurwinder Singh requesting review of objections to Defendant's additional Reply Brief submitted to Judge Mordue . (Dunn, Ronald) (Entered: 07/16/2012)
07/16/2012		TEXT NOTICE - The <u>10</u> MOTION to Dismiss for Lack of Personal Jurisdiction is returnable on 7/18/2012 before Judge Norman A. Mordue. The motion is fully briefed. The motion is on submit. NO appearances. (jlr) (Entered: 07/16/2012)
07/12/2012	<u>17</u>	REPLY to Response to Motion re <u>10</u> MOTION to Dismiss for Lack of Personal Jurisdiction <i>Defendant's Objections to Evidence Submitted by Plaintiffs in Support of Plaintiffs' Brief in Opposition to Defendants' Motion to Dismiss</i> filed by Cellular Sales of Knoxville, Inc.. (Attachments: # <u>1</u> Proposed Order/Judgment)(Carbo, Charles) (Entered: 07/12/2012)
07/12/2012	<u>16</u>	REPLY to Response to Motion re <u>8</u> MOTION to Dismiss for Lack of Subject Matter Jurisdiction <i>Pursuant to Rule 12(b)(1), or, in the Alternative, to Compel Mediation and Stay the Proceedings Pending Mediation</i> filed by Cellular Sales

		of Knoxville, Inc., Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Exhibit(s) Unpublished Cases)(Carbo, Charles) (Entered: 07/12/2012)
07/12/2012	<u>15</u>	REPLY to Response to Motion re <u>10</u> MOTION to Dismiss for Lack of Personal Jurisdiction filed by Cellular Sales of Knoxville, Inc.. (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) Unpublished Cases)(Carbo, Charles) (Entered: 07/12/2012)
07/05/2012	<u>14</u>	ORDER granting <u>13</u> Letter Request: extending time to 7/12/12 for defts to file Reply to Response to <u>8</u> and <u>10</u> motions to dismiss. Signed by Judge Norman A. Mordue on 7/5/12. (cbm) (Entered: 07/05/2012)
07/03/2012	<u>13</u>	<i>Unopposed</i> Letter Motion from C. Larry Carbo III for Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC requesting Extension for Defendants' Reply to Motion to Dismiss submitted to Judge Norman A. Mordue . (Carbo, Charles) (Entered: 07/03/2012)
06/29/2012	<u>12</u>	MEMORANDUM OF LAW re <u>8</u> Motion to Dismiss/Lack of Subject Matter Jurisdiction,, <u>10</u> Motion to Dismiss/Lack of Personal Jurisdiction, <i>In Opposition to Motions to Dismiss</i> filed by Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Gurwinder Singh. (Attachments: # <u>1</u> Affidavit Holick, # <u>2</u> Affirmation Dunn, # <u>3</u> Exhibit(s) Exhibit EE to Dunn Affirmation)(Dunn, Ronald) (Entered: 06/29/2012)
06/12/2012	<u>11</u>	Exhibits (Case Law) to <u>8</u> Motion to Dismiss for Lack of Subject Matter Jurisdiction <i>Pursuant to Rule 12(b)(1), or, in the Alternative, to Compel Mediation and Stay the Proceedings Pending Mediation</i> by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC <i>Unpublished Case Law 1 of 3</i> (Attachments: # <u>1</u> Exhibit(s) Case Law 2 of 2, # <u>2</u> Exhibit(s) Case Law 2 of 3) (Carbo, Charles) Modified on 6/13/2012 to correctly identify document. (mmm). (Entered: 06/12/2012)
06/08/2012	<u>10</u>	MOTION to Dismiss for Lack of Personal Jurisdiction Motion Hearing set for 7/16/2012 01:00 PM in Albany before Judge Norman A. Mordue Response to Motion due by 6/29/2012 Reply to Response to Motion due by 7/5/2012. filed by Cellular Sales of Knoxville, Inc.. (Attachments: # <u>1</u> Memorandum of Law, # <u>2</u> Exhibit(s) A, # <u>3</u> Exhibit(s) B, # <u>4</u> Exhibit(s) C, # <u>5</u> Exhibit(s) D, # <u>6</u> Exhibit(s) E, # <u>7</u> Exhibit(s) F, # <u>8</u> Exhibit(s) G, # <u>9</u> Exhibit(s) Case Law) (Carbo, Charles) (Entered: 06/08/2012)
06/08/2012	<u>9</u>	NOTICE by Cellular Sales of Knoxville, Inc. <i>of Motion</i> (Carbo, Charles) (Entered: 06/08/2012)
06/08/2012	<u>8</u>	MOTION to Dismiss for Lack of Subject Matter Jurisdiction <i>Pursuant to Rule 12(b)(1), or, in the Alternative, to Compel Mediation and Stay the Proceedings Pending Mediation</i> Motion Hearing set for 7/16/2012 01:00 PM in Albany before Judge Norman A. Mordue Response to Motion due by 6/29/2012 Reply to Response to Motion due by 7/5/2012. filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Memorandum of Law, # <u>2</u> Exhibit(s) A, # <u>3</u> Exhibit(s) B, # <u>4</u> Exhibit(s) C, # <u>5</u> Exhibit(s) D, # <u>6</u> Exhibit(s) E, # <u>7</u> Exhibit(s) F) (Carbo, Charles) (Entered: 06/08/2012)
06/08/2012	<u>7</u>	NOTICE by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC <i>of Motion</i> (Carbo, Charles) (Entered: 06/08/2012)

05/29/2012	<u>6</u>	ORDER granting <u>5</u> Motion for Limited Admission Pro Hac Vice for Cahrles Larry Carbo, III. Signed by Magistrate Judge David R. Homer on 5/25/12. (tab) (Entered: 05/29/2012)
05/25/2012	<u>5</u>	MOTION for Limited Admission Pro Hac Vice of Charles Larry Carbo, III Filing fee \$100, receipt number 0206-2203095. filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. Motions referred to David R. Homer. (Dougherty, Joseph) (Entered: 05/25/2012)
04/19/2012	<u>4</u>	WAIVER OF SERVICE Returned Executed by Steven Moffitt, Jan P. Holick, Jr, Justin Moffitt, Gurwinder Singh, Jason Mack. All Defendants. (Jacobs, Daniel) (Entered: 04/19/2012)
04/05/2012	<u>3</u>	G.O. 25 FILING ORDER ISSUED: Initial Conference set for 8/15/2012 10:00 AM in Albany before Magistrate Judge David R. Homer. Civil Case Management Plan due by 8/1/2012. (see) (Entered: 04/05/2012)
04/05/2012	<u>2</u>	Summonses Issued as to Cellular Sales of Knoxville, Inc. and Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Summons for Cellular Sales of New York, LLC)(see) (Entered: 04/05/2012)
04/04/2012	<u>1</u>	COLLECTIVE AND CLASS ACTION COMPLAINT with Jury Demand against Cellular Sales of Knoxville, Inc., and Cellular Sales of New York, LLC (Filing fee \$350 receipt number 0206-2153632) filed by Steven Moffitt, Jan P. Holick, Jr, Justin Moffitt, Gurwinder Singh, and Jason Mack. (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) B, # <u>3</u> Civil Cover Sheet)(see) (Entered: 04/05/2012)

PACER Service Center			
Transaction Receipt			
11/19/2014 11:38:15			
PACER Login:	hs0152:2563201:0	Client Code:	
Description:	Docket Report	Search Criteria:	1:12-cv-00584-NAM-RFT
Billable Pages:	8	Cost:	0.80

MEMBER

U.S. District Court
Northern District of New York - Main Office (Syracuse) [LIVE - Version 6.1]
(Albany)
CIVIL DOCKET FOR CASE #: 1:13-cv-00738-NAM-RFT

Holick et al v. Cellular Sales of New York, LLC et al
Assigned to: Senior Judge Norman A. Mordue
Referred to: Magistrate Judge Randolph F. Treece
Lead case: 1:12-cv-00584-NAM-RFT
Member case: (View Member Case)
Cause: 29:201 Denial of Overtime Compensation

Date Filed: 06/24/2013
Jury Demand: None
Nature of Suit: 710 Labor: Fair
Standards
Jurisdiction: Federal Question

Plaintiff

Jan P. Holick, Jr.

represented by **Daniel A. Jacobs**
Gleason, Dunn Law Firm
40 Beaver Street
Albany, NY 12207
518-432-7511
Fax: 518-432-5221
Email: djacobs@gdwo.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
Gleason, Dunn Law Firm
40 Beaver Street
Albany, NY 12207
518-432-7511
Fax: 518-432-5221
Email: rdunn@gdwo.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Steven Moffitt

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Justin Moffitt

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Gurwinder Singh

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Jason Mack

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

William Burrell

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Timothy M. Pratt

represented by **Daniel A. Jacobs**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronald G. Dunn
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Cellular Sales of New York, LLC

represented by **Charles L. Carbo , III**
Chamberlain, Hrdlicka Law Firm
1200 Smith Street
Suite 1400
Houston, TX 77002
713-658-1818
Fax: 713-658-2553
Email:
Larry.carbo@chamberlainlaw.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julie R. Offerman
Chamberlain, Hrdlicka Law Firm
1200 Smith Street
Suite 1400
Houston, TX 77002
713-658-1818
Fax: 713-658-2553
Email:
julie.offer@chamberlainlaw.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Joseph M. Dougherty
Hinman, Straub Law Firm - Albany
Office
121 State Street
Albany, NY 12207
518-436-0751
Fax: 518-436-4751
Email: jdougherty@hinmanstraub.com
ATTORNEY TO BE NOTICED

Defendant

Cellular Sales of Knoxville, Inc.

represented by **Charles L. Carbo , III**
(See above for address)
LEAD ATTORNEY

PRO HAC VICE
ATTORNEY TO BE NOTICED

Julie R. Offerman
 (See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Joseph M. Dougherty
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/21/2014	<u>132</u>	ORDER. It is ORDERED that in the interests of economy and avoidance of unnecessary duplication of effort and litigation expense, this action is hereby consolidated with 1:12-cv-584. This action is now designated as the member case pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, solely for purposes of pretrial proceedings, without prejudice to the right of one or both parties to later apply to the assigned trial judge for an order consolidating the cases for trial. All future filings must be filed ONLY in the LEAD case, 1:12-cv-584. NO FURTHER FILINGS SHALL BE DOCKETED IN THE MEMBER CASE. Signed by Senior Judge Norman A. Mordue on 10/21/2014. (dpk) (Entered: 10/22/2014)
10/21/2014	<u>131</u>	ORDER denying the <u>27</u> Motion to Compel arbitration. Signed by Senior Judge Norman A. Mordue on 10/21/14. (jlr) (Entered: 10/21/2014)
09/30/2014	<u>130</u>	ORDER denying the <u>65</u> Appeal of Magistrate Judge Decision to District Court. The order (Dkt. No. 62) of United States Magistrate Judge Randolph F. Treece is affirmed. Signed by Senior Judge Norman A. Mordue on 9/30/14. (jlr) (Entered: 09/30/2014)
09/24/2014	<u>129</u>	DISCOVERY ORDER. Signed by Magistrate Judge Randolph F. Treece on 9/24/2014. (dpk) (Entered: 09/24/2014)
09/02/2014	<u>128</u>	LETTER BRIEF by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Carbo, Charles) (Entered: 09/02/2014)
08/29/2014		TEXT NOTICE: In light of the fact that 9/1/2014 is a holiday and the Court is closed, the deadline for Defendants to file a Response to Plaintiffs' Letter Brief with regard to the reclassification issue is reset to 9/2/2014. (mab) (Entered: 08/29/2014)
07/31/2014	<u>127</u>	LETTER BRIEF <i>pursuant to the Court's July 18, 2014 Order [Dkt. 125 at p. 2]</i> by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. (Jacobs, Daniel) (Entered: 07/31/2014)
07/22/2014		

		TEXT NOTICE: On July 18, 2014, the Court held a conference with the parties regarding various discovery issues. The Court directed further briefing with regard to the reclassification issue. Plaintiff shall file a Letter Brief by 7/31/2014. Defendants shall file a Response to Letter Brief by 9/1/2014. (mab) (Entered: 07/22/2014)
07/22/2014	<u>126</u>	UNIFORM PRETRIAL SCHEDULING ORDER: Discovery due by 4/30/2015. Motions to be filed by 7/30/2015. This matter has been OPTED OUT of the Court's Mandatory Mediation Program. Trial Ready Deadline is 9/14/2015. Bench Trial set for 10/19/2015 at 9:30 AM in Syracuse, NY before Senior Judge Norman A. Mordue. Status Reports due by 11/20/2014 and 2/27/2015. Signed by Magistrate Judge Randolph F. Treece on 7/22/2014. (mab) (Entered: 07/22/2014)
07/18/2014	<u>125</u>	ORDER re Telephone Conference. Discovery due by 4/30/2015. Motions to be filed by 7/30/2015. Signed by Magistrate Judge Randolph F. Treece on 7/18/2014. (dpk) (Entered: 07/18/2014)
07/17/2014		Text Minute Entry for proceedings held before Magistrate Judge Randolph F. Treece: Telephone Conference held on 7/17/2014. Appearances: Daniel Jacobs, Esq. for Plaintiffs and Charles Carbo, Esq., Julie Offerman, Esq. and Joseph Dougherty, Esq. for Defendants. The Court lifts the STAY on discovery that was previously issued in this matter. Deadlines are set for discovery and for the filing of dispositive motions. The parties discuss several discovery issues that have been raised. After hearing from all counsel, the Court makes various rulings as to those issues on the record. The Court will issue an Order setting forth those rulings and a Uniform Pretrial Scheduling Order. (Court Reporter: Lisa Tennyson) (TIME: 2:30PM - 3:10PM). (mab) (Entered: 07/17/2014)
07/11/2014		TEXT NOTICE: A Telephone Conference in this matter is set for 7/17/2014 at 2:30 PM before Magistrate Judge Randolph F. Treece. The parties are directed to DIAL IN at 877-336-1839 and use Access Code 6651723 and Security Code 13738 to be connected to the conference call. (mab) (Entered: 07/11/2014)
07/10/2014	<u>124</u>	LETTER BRIEF <i>providing requested times for conference</i> by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Carbo, Charles) (Entered: 07/10/2014)
07/10/2014	<u>123</u>	LETTER BRIEF <i>pursuant to text order [Dkt. 122]</i> by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. (Jacobs, Daniel) (Entered: 07/10/2014)
07/09/2014	<u>122</u>	ORDER granting <u>119</u> , Defendants' Letter Request, to the extent it seeks a telephone conference. The parties shall file the dates and times that they may be available for a telephone conference during the week ending July 18, 2014. SO ORDERED. Signed by Magistrate Judge Randolph F. Treece on 7/9/2014. (Treece, Randolph) (Entered: 07/09/2014)
07/09/2014	<u>121</u>	RESPONSE TO LETTER BRIEF filed by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh as to <u>119</u> Letter Request/Motion filed by Cellular Sales of New York, LLC, Cellular Sales of Knoxville, Inc. . (Jacobs, Daniel) (Entered: 07/09/2014)

07/07/2014	120	TEXT ORDER: On July 7, 2014, Defendants filed a Letter Request seeking clarification from the Court as to whether discovery continues to be stayed in this matter. Dkt. No. <u>119</u> . The Court is taking this request under advisement. Plaintiffs are directed to file a response to Defendants' submission by July 9, 2014. SO ORDERED. Authorized by Magistrate Judge Randolph F. Treece on 7/7/2014. (mab) (Entered: 07/07/2014)
07/07/2014	<u>119</u>	Letter Motion from Defendants for Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC requesting Clarification submitted to Judge Randolph F. Treece . (Carbo, Charles) (Entered: 07/07/2014)
05/23/2014	<u>118</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh re 76 Order,, <i>joint proposed litigation plan</i> (Jacobs, Daniel) (Entered: 05/23/2014)
05/23/2014	117	ORDER granting <u>114</u> , Plaintiffs' Letter Request, seeking permission for Mr. Holar to interpose his FLSA claim in this action. Mr. Holar's is filing his Consent Form after the return date. Because Defendants do not oppose the filing of Holar's belated Consent Form, said application is granted. However, the Court is not prepared, at this time, to grant blanket permission to all other prospective opt-in plaintiff who are filing their Consent Forms after the return date. Each will have to be considered on their own merit. IT IS SO ORDERED. Signed by Magistrate Judge Randolph F. Treece on 5/23/2014. (Treece, Randolph) (Entered: 05/23/2014)
05/21/2014	<u>116</u>	RESPONSE to Motion re <u>114</u> Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting approval of the late filing of the Consent Form of Richard Hollar, II filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Dougherty, Joseph) (Entered: 05/21/2014)
05/19/2014	115	TEXT ORDER re <u>114</u> Plaintiffs' Letter Motion requesting approval of the late filing of the Consent Form of Richard Hollar. The Court is taking this request under advisement. Defendants are directed to respond to Plaintiffs' Letter Motion by 5/21/2014. SO ORDERED. Authorized by Magistrate Judge Randolph F. Treece on 5/19/2014. (mab) (Entered: 05/19/2014)
05/16/2014	<u>114</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting approval of the late filing of the Consent Form of Richard Hollar, II submitted to Judge Randolph F. Treece . (Jacobs, Daniel) (Entered: 05/16/2014)
05/15/2014	<u>113</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Richard Hollar II</i> (Jacobs, Daniel) (Entered: 05/15/2014)
05/12/2014	112	TEXT ORDER re the parties' <u>111</u> Letter Request for an extension of time to submit a joint proposed litigation plan for the next phase of this litigation as directed by the Stipulation so-ordered by the Court on February 18, 2014. (Dkts. 74 and 76). The request is GRANTED. The parties have until May 23, 2014 to submit the joint proposed litigation plan to the Court. SO ORDERED.

		Authorized by Magistrate Judge Randolph F. Treece on 5/12/2014. (mab) (Entered: 05/12/2014)
05/12/2014	<u>111</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting adjournment of the date for the parties to submit to the court a joint proposed litigation plan for the next phase of litigation submitted to Judge Randolph F. Treece . (Jacobs, Daniel) (Entered: 05/12/2014)
05/05/2014	<u>110</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by John E. Jones</i> (Jacobs, Daniel) (Entered: 05/05/2014)
04/23/2014	<u>109</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Kayla Persaud</i> (Jacobs, Daniel) (Entered: 04/23/2014)
04/17/2014	<u>108</u>	ORDER deferring ruling on <u>102</u> , Plaintiffs' Letter Request, seeking a conference to address consolidating this action with Case No. 12-cv-584. Plaintiffs seek to consolidate these two cases on the proposition that they are related and arise out of the same facts and circumstances. Defendants oppose the consolidation on several grounds, including that making such a determination now while the Second Circuit Mandate is being reviewed by Judge Mordue, is premature. Recently, the Second Circuit issued a Mandate dismissing in part Plaintiffs' appeal of Judge Mordue's decision and, "to the extent not dismissed, the judgment is VACATED and the case is REMANDED." The parties disagree as to what the Mandate and the Remand actually means. This Court, as well as Judge Mordue, concur with Defendants' view that Judge Mordue's decision was not reversed but remanded for further proceedings. On April 16, 2014, Judge Mordue issued a Text Order directing the parties to submit briefs addressing the impact of the Second Circuit's Mandate, especially with regard to the Defendants' Motion to Dismiss for lack of subject matter jurisdiction. See Case No. 12-CV-584, Dkt. No. 46. Because Defendants' Motion to Dismiss remains outstanding, any conference regarding consolidation of these actions is premature. Accordingly, the Court reserves addressing this issue until Defendants' Motion is ultimately decided by Judge Mordue. SO ORDERED. Signed by Magistrate Judge Randolph F. Treece on 4/17/2014. (Treece, Randolph) (Entered: 04/17/2014)
04/14/2014	<u>107</u>	RESPONSE to Motion re <u>105</u> Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting consideration of new case authority in support of Plaintiffs' Opp filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Dougherty, Joseph) (Entered: 04/14/2014)
04/11/2014	<u>106</u>	RESPONSE to Motion re <u>102</u> Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting a Court conference pursuant to Local Rule 7.1(b)(2) submitted to Judg filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Exhibit(s) A) (Offerman, Julie) (Entered: 04/11/2014)

04/11/2014	<u>105</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting consideration of new case authority in support of Plaintiffs' Opposition [Dkt 40] to Defendants' Motions [Dkt 25] and [Dkt 27] submitted to Judge Norman A. Mordue . (Jacobs, Daniel) (Entered: 04/11/2014)
04/07/2014	<u>104</u>	TEXT ORDER re <u>102</u> Plaintiffs' Letter Motion requesting a Court conference pursuant to Local Rule 7.1(b)(2). The Court is taking this request under advisement. Defendants are directed to file a response to Plaintiffs' Letter Motion by 4/11/2014. SO ORDERED. Authorized by Magistrate Judge Randolph F. Treece on 4/7/2014. (mab) (Entered: 04/07/2014)
04/07/2014	<u>103</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Britney Ross</i> (Jacobs, Daniel) (Entered: 04/07/2014)
04/07/2014	<u>102</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting a Court conference pursuant to Local Rule 7.1(b)(2) submitted to Judge Randolph F. Treece, U.S. Magistrate Judge . (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) B, # <u>3</u> Exhibit(s) C)(Jacobs, Daniel) (Entered: 04/07/2014)
04/07/2014	<u>101</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Christopher Westfall</i> (Jacobs, Daniel) (Entered: 04/07/2014)
04/02/2014	<u>100</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Adam Miller</i> (Jacobs, Daniel) (Entered: 04/02/2014)
03/25/2014	<u>99</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Drake Hewitt</i> (Jacobs, Daniel) (Entered: 03/25/2014)
03/24/2014	<u>98</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Jaquennette Harris</i> (Jacobs, Daniel) (Entered: 03/24/2014)
03/24/2014	<u>97</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Kyle Degon</i> (Jacobs, Daniel) (Entered: 03/24/2014)
03/24/2014	<u>96</u>	CLARIFICATION ORDER: After a telephone conference held on February 26, 2014, the Court issued a Text Order summarizing the rulings made during the conference. Dkt. No. 83 . Regarding avoiding unregulated solicitation of potential opt-in plaintiffs, and should a notice of the collective action be returned undelivered, the Court wrote that Plaintiffs shall contact Defendants to secure better contact information. If Defendants are unable to provide better and suitable contact information, Plaintiffs may employ their independent investigative measures to secure better and suitable contact information. Should the latter occur, Plaintiffs may mail the Notice to the last known and suitable address. Id. Apparently, an issue has ensued as to what may be the

		probable parameters of independent investigative measures. Plaintiffs submit that their investigative measures could include a telephone call for the sole purpose of getting an updated address. Dkt. No. <u>93</u> . Conversely, Defendants take the view that any telephone calls in order to obtain updated addresses is improper. Dkt. No. <u>94</u> . In order to put this issue to rest, if the Plaintiffs independent investigative measures only produces a telephone number, Plaintiffs may call the potential opt-in plaintiff in order to obtain only an updated address to forward the Notice. Plaintiffs shall not discuss the substance of the court-supervised collective notice and will affirmatively state, if necessary, that they cannot speak with the potential plaintiff regarding the lawsuit until the potential plaintiff has received the Notice, and then may contract Plaintiffs with any inquiries relative to the lawsuit. SO ORDERED. Signed by Magistrate Judge Randolph F. Treece on 3/24/2014. (Treece, Randolph) (Entered: 03/24/2014)
03/21/2014	<u>95</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Marisa A. Morabito</i> (Jacobs, Daniel) (Entered: 03/21/2014)
03/20/2014	<u>94</u>	RESPONSE to Motion re 93 Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting a court conference and/or clarification on the scope of "their in <i>dependent investigative measures</i> " filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Transcript February 26, 2014)(Dougherty, Joseph) (Entered: 03/20/2014)
03/20/2014	<u>93</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting a court conference and/or clarification on the scope of "their independent investigative measures" as permitted under the February 26, 2014 Order submitted to Judge Randolph F. Treece . (Jacobs, Daniel) (Entered: 03/20/2014)
03/19/2014	<u>92</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Douglas R. Camp</i> (Jacobs, Daniel) (Entered: 03/19/2014)
03/18/2014	<u>91</u>	TRANSCRIPT of Proceedings: Telephone Conference held on February 26, 2014 before Magistrate Judge Randolph F. Treece, Court Reporter: Theresa J. Casal, Telephone number: 518.257.1897. IMPORTANT NOTICE - REDACTION OF TRANSCRIPTS: In order to remove personal identifier data from the transcript, a party must electronically file a Notice of Intent to Request Redaction with the Clerk's Office within 5 business days of this date. The policy governing the redaction of personal information is located on the court website at www.nynd.uscourts.gov . <u>Read this policy carefully.</u> If no Notice of Intent to Redact is filed within 5 business days of this date, the court will assume redaction of personal identifiers is not necessary and the transcript will be made available on the web 90 days from today's date. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction.

		After that date it may be obtained through PACER. Redaction Request due 4/8/2014. Redacted Transcript Deadline set for 4/18/2014. Release of Transcript Restriction set for 6/16/2014. Notice of Intent to Redact due by 3/24/2014 (tjc,) (Entered: 03/18/2014)
03/18/2014		TRANSCRIPT REQUEST (EXPEDITED) by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC for proceedings held on February 26, 2014 before Judge Randolph F. Treece.. (tjc,) (Entered: 03/18/2014)
03/18/2014	<u>90</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Julie C. Miller</i> (Jacobs, Daniel) (Entered: 03/18/2014)
03/14/2014	<u>89</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Brandon Moores</i> (Jacobs, Daniel) (Entered: 03/14/2014)
03/13/2014	<u>88</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Charlene Noel</i> (Jacobs, Daniel) (Entered: 03/13/2014)
03/11/2014	<u>87</u>	NOTICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh <i>of Consent to Sue under FLSA by Christopher Dursley</i> (Jacobs, Daniel) (Entered: 03/11/2014)
03/07/2014	<u>86</u>	STATUS REPORT <i>regarding mailing of Court Supervised Notice</i> by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. (Attachments: # <u>1</u> Exhibit(s) A)(Jacobs, Daniel) (Entered: 03/07/2014)
03/06/2014	<u>85</u>	ORDER re <u>84</u> the parties' Letter Request to modify this Court's Order dated February 26, 2014 with regard to the temporal scope of the court-supervised notice to putative collective action members who did not sign arbitration agreements. The request is GRANTED. The Order is modified in that the temporal scope of the notice shall be from June 24, 2010 up to and through December 31, 2011. SO ORDERED. Signed by Magistrate Judge Randolph F. Treece on 3/5/2014. (mab) (Entered: 03/06/2014)
03/05/2014	<u>84</u>	Letter Motion from Attorney for Defendants, C. Larry Carbo, III for Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC requesting to Modify Order for Class Notice submitted to Judge Randolph F. Treece . (Carbo, Charles) (Entered: 03/05/2014)
02/26/2014		Text Minute Entry for proceedings held before Magistrate Judge Randolph F. Treece: Telephone Conference held on 2/27/2014. Appearances: Daniel Jacobs, Esq., Ronald Dunn, Esq., Charles Carbo, Esq., Julie Offerman, Esq. and Joseph Dougherty, Esq. The Court held a telephone conference to discuss the disagreements in the proposed Stipulation and Order regarding conditional certification pursuant to FSLA that was presented to the Court. After hearing from all parties, the Court made various rulings as to those disagreements. The Court noted the parties' respective objections. Since the Court ruled on the disagreements, the Court so ordered the Stipulation. (Court Reporter: Theresa Casal). (mab) (Entered: 02/27/2014)

02/26/2014	83	TEXT ORDER: On February 14, 2014, the parties presented to the Court a Stipulation and Order regarding a conditional certification pursuant to FLSA section 216(b). See Dkt. No. <u>74</u> . Although the parties have entered into a Stipulation, the parties disagreed as to four features which would be relevant to the Notice of Collective Action Lawsuit. See Dkt. No. 74 at paragraph 3 ("In light of the defendants' agreement to conditional certification..., only a few issues remain for the court's determination with respect to the... content and distribution of the Notice of Collective Action Lawsuit."). The Court issued a Text Order directing the parties to further brief their respective positions regarding their differences over the Notice. Dkt. No. 76 . Pursuant to that Text Order, both parties filed Legal-Briefs on February 24, 2014. See Dkt. Nos. <u>81</u> , Pls.' Lt.-Br., <u>82</u> , Defs.' Lt.-Br. On February 26, 2014, a telephonic Hearing was held on the record. During the Hearing, the parties made further arguments and responded to the Court's inquiries. Further, the Court made several Rulings on the record regarding what should be included or omitted from the Notice, which are incorporated by reference into this Text Order and summarized as follows: (1) the temporal scope of this Notice shall be three years running from June 24, 2010 to June 24, 2013; (2) the potential opt-in plaintiffs shall not be advised of the pending state claims, only the FLSA claim; (3) the potential opt-in plaintiffs shall not be advised of their potential liability for costs or that Defendants may file counterclaims; and (4) to avoid unregulated solicitation of potential opt-in plaintiffs, should a Notice be returned undelivered, Plaintiffs shall contact Defendants to secure better contact information. If Defendants are unable to provide better and suitable contact information, Plaintiffs may employ their independent investigative measures to secure better and suitable information. Should the latter occur, Plaintiffs may mail the Notice to the last known and suitable address. However, should a potential opt-in plaintiff contact Plaintiffs' Counsel directly, Counsel has the right to discuss with that inquiring party the nature of the lawsuit and the related claims. The Court notes the parties' respective objections to the above Rulings. Now that the Court has ruled on the parties' differences, the Court so orders the Stipulation. SO ORDERED. Signed by Magistrate Judge Randolph F. Treece on 2/26/2014. (Treece, Randolph) (Entered: 02/26/2014)
02/26/2014		TEXT NOTICE: The Telephone Conference set for 2/26/2014 is RESCHEDULED as to TIME ONLY. The telephone conference will now be held on 2/26/2014 at 3:30 PM before Magistrate Judge Randolph F. Treece. The parties are directed to DIAL IN at 877-336-1839 and use Access Code 6651723 and Security Code 1738 to be connected to the conference. You may be prompted to announce your name. (mab) (Entered: 02/26/2014)
02/24/2014	<u>82</u>	LETTER BRIEF <i>submitted pursuant to the Court's February 18, 2014 Order to brief the Court on Defendants' position in relation to the parties' identified differences in Paragraph 3 of their signed Stipulation</i> by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Exhibit (s) A)(Carbo, Charles) (Entered: 02/24/2014)
02/24/2014	<u>81</u>	LETTER BRIEF <i>submitted pursuant to the Court's February 18, 2014 Order to brief the Court on Plaintiff's position in relation to the parties identified differences in Paragraph 3 of their signed Stipulation [Dkt. 76]</i> by William

		Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) B) (Jacobs, Daniel) (Entered: 02/24/2014)
02/19/2014		TEXT NOTICE: A Telephone Conference is set for 2/26/2014 at 3:00 PM before Magistrate Judge Randolph F. Treece. The parties are directed to DIAL IN at 877-336-1839 and use Access Code 6651723 and Security Code 1738 to be connected to the conference. You may be prompted to announce your name. (mab) (Entered: 02/19/2014)
02/18/2014	<u>80</u>	Letter Brief from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting Pursuant to text order issued (Dkt 76) stating plaintiffs' counsel availability for a telephonic court conference submitted to Judge Randolph F. Treece . (Jacobs, Daniel) Modified on 2/19/2014 (jlr). Changed from letter motion to letter brief. (Entered: 02/18/2014)
02/18/2014	<u>79</u>	LETTER BRIEF <i>Regarding Availability for TeleConference</i> by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Carbo, Charles) (Entered: 02/18/2014)
02/18/2014	<u>78</u>	CERTIFICATE OF SERVICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh re <u>77</u> Response to Appeal of Magistrate Judge Decision (Jacobs, Daniel) (Entered: 02/18/2014)
02/18/2014	<u>77</u>	Response by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh to <u>65</u> Appeal of Magistrate Judge Decision to District Court, (Jacobs, Daniel) (Entered: 02/18/2014)
02/18/2014	<u>76</u>	ORDER: The parties have filed a proposed Stipulation and Order. Dkt. No. <u>74</u> . Paragraph 3 of the proposed Stipulation and Order and the Notice of Collective Action highlight differences between the parties that may require a court determination in resolving them. Regarding these identified differences, the parties shall file their respective letter brief no later than February 24, 2014. Further, the parties shall file the dates and times that they may be available for a telephone conference during the weeks ending February 21 and 28, 2014. The Court anticipates the parties' immediate attention to this Text Order. SO ORDERED. Signed by Magistrate Judge Randolph F. Treece on 2/18/2014. (Treece, Randolph) (Entered: 02/18/2014)
02/14/2014	<u>75</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC re <u>74</u> Stipulation <i>and Order</i> (Carbo, Charles) (Entered: 02/14/2014)
02/14/2014	<u>74</u>	STIPULATION <i>and Order</i> by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC submitted to Judge Rudolph F. Treece. (Attachments: # <u>1</u> Exhibit(s) A)(Carbo, Charles) (Entered: 02/14/2014)
02/12/2014	<u>73</u>	TEXT ORDER re the parties' <u>72</u> Letter Request for an extension of time to advise the Court regarding conditional certification. The request is GRANTED. Status Report shall be filed by 2/14/2014. SO ORDERED. Authorized by

		Magistrate Judge Randolph F. Treece on 2/12/2014. (mab) (Entered: 02/12/2014)
02/11/2014	<u>72</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting adjournment of the deadline to advise the Court regarding conditional certification to February 14, 2014 submitted to Judge Randolph F. Treece . (Jacobs, Daniel) (Entered: 02/11/2014)
02/06/2014		Text Minute Entry for proceedings held before Magistrate Judge Randolph F. Treece: Telephone Conference held on 2/6/2014. Appearances: Daniel Jacobs, Esq., Charles Carbo, Esq., Julie Offerman, Esq. and Joseph Dougherty, Esq. The parties discuss Plaintiff's motion for conditional certification with the Court. The parties are directed to file a Status Report by 2/11/2014 with regard to this motion. (Court Reporter: Lisa Tennyson). (mab) (Entered: 02/06/2014)
01/28/2014		TEXT NOTICE: A Telephone Conference in this matter is set for 2/6/2014 at 3:00 PM before Magistrate Judge Randolph F. Treece. The parties are directed to DIAL IN at 877-336-1839 and use Access Code 6651723 and Security Code 1738 to be connected to the conference call. You may be prompted to announce your name. (mab) (Entered: 01/28/2014)
01/24/2014	<u>71</u>	ORDER denying the <u>67</u> Motion for Preliminary Injunction. Signed by Senior Judge Norman A. Mordue on 1/24/14. (jlr) (Entered: 01/24/2014)
01/22/2014	<u>70</u>	Response to the <u>67</u> Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting consideration of date of Plaintiffs' notice of Emergency Motion in consideration of Defendants' Emergency Motion [Dkt 67] submitted to Judge Norman A. Mordue . (Jacobs, Daniel) Modified on 1/22/2014 (jlr). (Entered: 01/22/2014)
01/22/2014	<u>69</u>	STATUS REPORT <i>regarding discovery order issued on January 4, 2014</i> by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. (Jacobs, Daniel) (Entered: 01/22/2014)
01/22/2014		TEXT NOTICE - Counsel is directed to immediately send a courtesy copy of the <u>40</u> Response in Opposition to Motion, the <u>27</u> Amended MOTION to Compel <i>Individual Arbitrations of and to Dismiss or Stay Plaintiff Pratt's and Plaintiff Burrell's Claims</i> and the <u>54</u> Reply to Response to Motion to Judge Mordue's chambers. (jlr) (Entered: 01/22/2014)
01/21/2014	<u>68</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC re <u>67</u> Emergency MOTION for Preliminary Injunction <i>Staying the Magistrate's Order for Production</i> (Carbo, Charles) (Entered: 01/21/2014)
01/21/2014	<u>67</u>	Emergency MOTION for Preliminary Injunction <i>Staying the Magistrate's Order for Production</i> by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Memorandum of Law) (Carbo, Charles) (Entered: 01/21/2014)
01/21/2014	<u>66</u>	

		CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC re <u>65</u> APPEAL OF MAGISTRATE JUDGE DECISION to District Court by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC <i>on January 4, 2014 Discovery Order</i> (Carbo, Charles) (Entered: 01/21/2014)
01/21/2014	<u>65</u>	APPEAL OF MAGISTRATE JUDGE DECISION to District Court by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC <i>on January 4, 2014 Discovery Order</i> Motion Hearing set for 3/5/2014 10:00 AM in Syracuse before Senior Judge Norman A. Mordue Response to Motion due by 2/18/2014 (Attachments: # <u>1</u> Memorandum of Law, # <u>2</u> Record on Appeal Designation for Purposes of Defendants' Objections to the Magistrate Judge's January 4, 2014 Discovery Order)(Carbo, Charles) (Entered: 01/21/2014)
01/13/2014	<u>64</u>	TOLLING STIPULATION and ORDER. Signed by Magistrate Judge Randolph F. Treece on 1/13/2014. (mab) (Entered: 01/13/2014)
01/10/2014	<u>63</u>	STIPULATION <i>on Tolling</i> by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC submitted to Judge Randolph Treece. (Carbo, Charles) (Entered: 01/10/2014)
01/04/2014	62	ORDER: After presiding over a discovery conference, which was held on the record, on December 19, 2013, the Court issued a Discovery Order. Dkt. No. 56 . In addition to addressing the matter of personal jurisdiction, the filing an Answer, and directing that Defendants to disclose the names and addresses of those similarly suited potential opt-in plaintiffs, the Court reserved on the issues of whether those employees who signed arbitration agreements and yet may be potential opt-in plaintiffs should be disclosed to Plaintiffs. Id. Based upon the Defendants representation that there was controlling Second Circuit precedent regarding this disclosure, the Court granted Defendants an opportunity to provide that controlling precedent. Additionally, the Court asks the parties to meet and confer as to the next steps and to propose dates. Id. Well, the parties indeed met and conferred but with no positive results. See the parties respective Status Reports, Dkt. Nos. <u>59</u> & <u>60</u> . Since it was such a simple task for the parties to meet and confer and respond to the Courts directions, there is no benefit for this Court to engage in another conference and, therefore, declines the invitation. Instead, the Court intends to Rule so that this case may proceed accordingly. Additionally, the Court declines a stay while Judge Mordue decides the Motion to Compel Arbitration. Judicial economy would be lost if we waited. As this Court made explicitly clear, the tolling of the statute limitations applied solely to those employees with arbitration agreements. Plaintiffs expansion of this defined group to include all potential opt-in plaintiffs is without merit. Therefore, the parties shall execute the Defendants proposed equitable tolling of the statute of limitation stipulation for those employees with arbitration agreement and file it with the Court by January 11, 2014. Next, Defendants fail to submit any Second Circuit precedent limiting the disclosure of those employees with arbitration agreement to the Court. In fact, they submitted no precedents in further support of their position. As the Court stated during the December 19th Conference, I am persuaded by the Fourth Circuits Decision in <i>NewBanks v. Cellular Sales of Knoxville</i> that the arbitration requirement only applies to causes of action

		accruing from the execution of the Compensation Agreements and onward. Therefore, arbitration agreements have no applicability prior to the agreement and would not apply to claims that accrued prior to the Compensation Agreement. Accordingly, Defendants shall provide the names and addresses of those employees with arbitration agreements to Plaintiffs. The underlying arbitration agreements need not be disclosed at this time. Lastly, the parties shall submit to the Court by January 22, 2014, a proposed date for the filing of any motion or stipulation as to any notice to be published to the potential opt-in class. SO ORDERED. Signed by Magistrate Judge Randolph F. Treece on 1/4/2014. (Treece, Randolph) (Entered: 01/04/2014)
01/02/2014	<u>61</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC re <u>60</u> Status Report (Carbo, Charles) (Entered: 01/02/2014)
01/02/2014	<u>60</u>	STATUS REPORT by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) B)(Carbo, Charles) (Entered: 01/02/2014)
01/02/2014	<u>59</u>	STATUS REPORT <i>on the discussions between the parties pursuant to Judge Treece's discovery order (Dkt. 56)</i> by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. (Jacobs, Daniel) (Entered: 01/02/2014)
12/30/2013	<u>58</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc. re <u>57</u> Amended Answer to Complaint (Carbo, Charles) (Entered: 12/30/2013)
12/30/2013	<u>57</u>	AMENDED ANSWER to <u>19</u> Amended Complaint, by Cellular Sales of Knoxville, Inc.. (Carbo, Charles) (Entered: 12/30/2013)
12/19/2013		Text Minute Entry for proceedings held before Magistrate Judge Randolph F. Treece: Telephone Conference held on 12/19/2013. Appearances: Daniel Jacobs, Esq., Ronald Gleason, Esq., Charles Carbo, Esq., Julie Offerman, Esq. and Joseph Dougherty, Esq. The Court held a telephone conference to discuss the various discovery issues raised by the parties. After hearing from the parties the Court made several rulings as to those discovery issues. The Court also clarified what was meant by limited discovery permitted at the Rule 16 Initial Conference. The parties are directed to file a Status Report by 1/2/2014 as to the discussion on the tolling matter and the next step in this litigation. (Court Reporter: Theresa Casal). (mab) (Entered: 12/20/2013)
12/19/2013	<u>56</u>	DISCOVERY ORDER: Currently before the Court is a debate as to what the Court meant by limited discovery regarding matters of personal jurisdiction and identifying potential opt-in plaintiffs. During the Rule 16 Conference when the Court granted such limited discovery, the Court failed to define the parameters of such limited discovery. In the interim, Plaintiffs served Demands for Interrogatories and Production, which Defendants objected to as being beyond the scope of the court-permitted limited discovery, as well as several other related objections. The matter was presented to the Court. See Dkt. Nos. <u>47</u> & <u>53</u> . On December 19, 2013, a telephonic Hearing was held on the record. Prior to any Rulings, the Court explained what was meant by limited discovery at this initial stage of this FLSA case. After hearing from the parties, the Court

		made several Rulings which are incorporated by reference into this Text Order, and summarized as follows: (1) The Defendants shall file an amended Answer striking Paragraph 11 that discusses matters of personal jurisdiction. Upon amending their Answer and considering their representation that the matter of personal jurisdiction is no longer a viable issue in this case, no further discovery in this realm is necessary; (2) In terms of discovery related to potential opt-in plaintiffs, the Court exercises its discretion and directs Defendants to disclose the names and addresses of those similarly suited potential opt-in plaintiffs, which include those previously identified as the "Bolletino Class." All other Demands are reserved until there is a decision relative to a conditional certified class. And, should such a class be conditionally certified, those Demands would then be operable; (3) At this juncture, the Court reserves on the issues of whether those employees who signed arbitration agreements and yet may be potential opt-in plaintiffs should be disclosed to the Plaintiffs. Defendants are permitted to submit any further case precedents they deem controlling on this issue. Further, the parties shall meet and confer regarding a suggestion of tolling the statute of limitations as to these employees with arbitration agreements until such time the Honorable Norman Mordue, Senior United States District Judge, renders a decision on a pending Motion to Compel Arbitration. When Judge Mordue renders such a decision, it should serve as law of the case as to this issue; (4) The parties shall meet and confer and consider the timing of the next steps in this litigation and propose dates as to filing any motion or stipulation as to any notice to be published to the potential opt-in class; and (5) The parties shall file a status report by January 2, 2014 regarding their discussions on the tolling matter and the litigation's next steps. SO ORDERED. Signed by Magistrate Judge Randolph F. Treece on 12/19/2013. (Treece, Randolph) (Entered: 12/19/2013)
12/16/2013	<u>55</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC re <u>54</u> Reply to Response to Motion, <i>in Further Support of Defendants' Amended Motion to Compel Individual Arbitrations of and to Dismiss or Stay Plaintiffs Pratt's and Burrell's Claims</i> (Carbo, Charles) (Entered: 12/16/2013)
12/16/2013	<u>54</u>	REPLY to Response to Motion re <u>27</u> Amended MOTION to Compel <i>Individual Arbitrations of and to Dismiss or Stay Plaintiff Pratt's and Plaintiff Burrell's Claims in Further Support</i> filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Exhibit(s) Unpublished Cases)(Carbo, Charles) (Entered: 12/16/2013)
12/13/2013		TEXT NOTICE: A Telephone Conference in this matter is set for 12/19/2013 at 3:00 PM before Magistrate Judge Randolph F. Treece. The parties are directed to DIAL IN at 877-336-1839 and use Access Code 6651723 and Security Code 13738 to be connected to the conference call. You may be prompted to announce your name. (mab) (Entered: 12/13/2013)
12/13/2013	<u>53</u>	RESPONSE to Motion re <u>47</u> Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting a court conference over discovery issues submitted to Judge Randolph filed by Cellular Sales of

		Knoxville, Inc., Cellular Sales of New York, LLC. (Carbo, Charles) (Entered: 12/13/2013)
12/12/2013	<u>52</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting availability for teleconference on discovery issues [Dkt 50] submitted to Judge Randolph F. Treece . (Jacobs, Daniel) (Entered: 12/12/2013)
12/11/2013	<u>51</u>	Letter Motion from C. Larry Carbo, III for Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC requesting Availability for Teleconference on Discovery Matters (Dkt 50) submitted to Judge Randolph F. Treece . (Carbo, Charles) (Entered: 12/11/2013)
12/11/2013	50	ORDER granting <u>47</u> , Plaintiff's Letter Request, seeking a telephone conference to address outstanding discovery matters. Defendants shall file a reply to the Letter Request before December 16, 2013. The parties shall immediately file the dates and times that they may be available for a telephone conference on the record during the week ending December 20, 2013. The Court expects the parties' immediate attention to this Text Order. SO ORDERED. Signed by Magistrate Judge Randolph F. Treece on 12/11/2013. (Treece, Randolph) (Entered: 12/11/2013)
12/10/2013	<u>49</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc. re <u>48</u> Answer to Amended Complaint (Carbo, Charles) (Entered: 12/10/2013)
12/10/2013	<u>48</u>	ANSWER to <u>19</u> Amended Complaint, by Cellular Sales of Knoxville, Inc.. (Carbo, Charles) (Entered: 12/10/2013)
12/09/2013	<u>47</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting a court conference over discovery issues submitted to Judge Randolph F. Treece . (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) B, # <u>3</u> Exhibit(s) C, # <u>4</u> Exhibit(s) D, # <u>5</u> Exhibit(s) E, # <u>6</u> Exhibit(s) F)(Jacobs, Daniel) (Entered: 12/09/2013)
12/05/2013	46	TEXT ORDER granting the <u>37</u> Motion to Withdraw the <u>25</u> Motion to Dismiss for Lack of Personal Jurisdiction (Motion is terminated). The <u>41</u> Letter Motion requesting oral argument on the <u>27</u> Motion to Compel is Denied. Endorsed by Senior Judge Norman A. Mordue on 12/5/13. (jlr) (Entered: 12/05/2013)
12/05/2013	<u>45</u>	ORDER granting <u>44</u> Letter Request re <u>27</u> Amended MOTION to Compel <i>Individual Arbitrations of and to Dismiss or Stay Plaintiff Pratt's and Plaintiff Burrell's Claims</i> : Reply to Response to Motion due by 12/16/2013. Signed by Senior Judge Norman A. Mordue on 12/5/2013. (dpk) (Entered: 12/05/2013)
12/05/2013	<u>44</u>	Letter Motion from C. Larry Carbo, III for Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC requesting Extension to File Reply to Plaintiffs' Response to Defendants' Motion to Compel Individual Arbitration and to Dismiss or Stay Plaintiffs' Pratt's and Burrell's Claims submitted to Judge Hon. Norman A. Mordue . (Carbo, Charles) (Entered: 12/05/2013)
12/04/2013	<u>43</u>	

		Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting consideration of new case authority in support of Plaintiffs' Opposition [Dkt 40] to Defendants Motions [Dkt 25] and [Dkt 27] submitted to Judge Norman A. Mordue . (Attachments: # <u>1</u> Exhibit(s) US Court of Appeals, Fourth Circuit Decision in Newbanks v Cellular Sales of Knoxville, Inc.) (Jacobs, Daniel) (Entered: 12/04/2013)
12/03/2013	<u>42</u>	CERTIFICATE OF SERVICE by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh re <u>40</u> Response in Opposition to Motion,,,,, (Jacobs, Daniel) (Entered: 12/03/2013)
12/02/2013	<u>41</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting oral argument in respect to defendants' pending motion [Dkt No. 27] submitted to Judge Norman A. Mordue . (Jacobs, Daniel) (Entered: 12/02/2013)
12/02/2013	<u>40</u>	RESPONSE in Opposition re <u>25</u> MOTION to Dismiss for Lack of Personal Jurisdiction <i>Plaintiff's Amended Complaint Under Rule 12(b)(2) of the Federal Rules of Civil Procedure</i> , <u>27</u> Amended MOTION to Compel <i>Individual Arbitrations of and to Dismiss or Stay Plaintiff Pratt's and Plaintiff Burrell's Claims</i> filed by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. (Attachments: # <u>1</u> Declaration of Timothy M. Pratt, # <u>2</u> Exhibit(s) A to Pratt Declaration, # <u>3</u> Exhibit(s) B to Pratt Declaration, # <u>4</u> Exhibit(s) C to Pratt Declaration, # <u>5</u> Exhibit(s) D to Pratt Declaration, # <u>6</u> Exhibit(s) E to Pratt Declaration, # <u>7</u> Exhibit(s) F to Pratt Declaration, # <u>8</u> Exhibit(s) G to Pratt Declaration, # <u>9</u> Declaration of William Burrell, # <u>10</u> Exhibit(s) A to Burrell Declaration, # <u>11</u> Exhibit(s) B to Burrell Declaration, # <u>12</u> Exhibit(s) C to Burrell Declaration, # <u>13</u> Exhibit(s) D to Burrell Declaration, # <u>14</u> Exhibit(s) E to Burrell Declaration, # <u>15</u> Exhibit(s) F to Burrell Declaration, # <u>16</u> Exhibit(s) G to Burrell Declaration, # <u>17</u> Affirmation of Daniel A. Jacobs, Esq., # <u>18</u> Exhibit(s) A to Jacobs Affirmation, # <u>19</u> Exhibit(s) B to Jacobs Affirmation, # <u>20</u> Exhibit(s) C to Jacobs Affirmation, # <u>21</u> Exhibit(s) D to Jacobs Affirmation, # <u>22</u> Exhibit(s) E to Jacobs Affirmation)(Jacobs, Daniel) (Entered: 12/02/2013)
11/15/2013	<u>39</u>	CONFIDENTIALITY STIPULATION, PROTECTIVE AGREEMENT and ORDER. Signed by Magistrate Judge Randolph F. Treece on 11/15/2013. (mab) (Entered: 11/15/2013)
11/14/2013	<u>38</u>	Letter Motion from C. Larry Carbo, III for Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC requesting Protective Order submitted to Judge Norman A. Mordue . (Attachments: # <u>1</u> Proposed Order/Judgment Confidentiality Stipulation, Protective Agreement, and Order)(Carbo, Charles) (Attachment 1, Proposed Order, replaced on 11/14/2013 at request of counsel to include all pages.) (lah) (Entered: 11/14/2013)
11/07/2013	<u>37</u>	MOTION to Withdraw <u>25</u> MOTION to Dismiss for Lack of Personal Jurisdiction <i>Plaintiff's Amended Complaint Under Rule 12(b)(2) of the Federal Rules of Civil Procedure Unopposed</i> filed by Cellular Sales of Knoxville, Inc.. (Attachments: # <u>1</u> Exhibit(s) Certificate of Conference, # <u>2</u> Exhibit(s)

		Certificate of Service) Motions referred to Randolph F. Treece. (Carbo, Charles) (Entered: 11/07/2013)
10/11/2013	<u>36</u>	TEXT ORDER granting THE <u>34</u> Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting adjournment of the return date for two motions to dismiss (Dkt. Nos. 25 & 27) to December 18, 2013. The <u>25</u> MOTION to Dismiss for Lack of Personal Jurisdiction <i>Plaintiff's Amended Complaint Under Rule 12(b)(2) of the Federal Rules of Civil Procedure</i> , and the <u>27</u> Amended MOTION to Compel <i>Individual Arbitrations of and to Dismiss or Stay Plaintiff Pratt's and Plaintiff Burrell's Claims</i> are returnable on 12/18/2013 before Senior Judge Norman A. Mordue. Response to Motions due by 12/2/2013. Reply to Response to Motions due by 12/9/2013. The motions are on submit. No appearances. Endorsed by Senior Judge Norman A. Mordue on 10/11/13. (jlr) (Entered: 10/11/2013)
10/09/2013	<u>35</u>	RESPONSE to Motion re <u>34</u> Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting adjournment of the return date for two motions to dismiss (Dkt. Nos. 2 filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Carbo, Charles) (Entered: 10/09/2013)
10/08/2013	<u>34</u>	Letter Motion from Daniel A. Jacobs, Esq. for William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh requesting adjournment of the return date for two motions to dismiss (Dkt. Nos. 25 & 27) to December 18, 2013 submitted to Judge Norman A. Mordue . (Jacobs, Daniel) (Entered: 10/08/2013)
10/03/2013		Text Minute Entry for proceedings held before Magistrate Judge Randolph F. Treece: Rule 16 Initial Conference held on 10/3/2013. Appearances: Daniel Jacobs, Esq., Ronald Dunn, Esq., Charles Cabo, Esq., Julie Offerman, Esq. and Joseph Dougherty, Esq. Limited discovery related to identifying potential opt-in Plaintiffs and matters of personal jurisdiction is permitted. Plaintiff shall serve limited discovery demands by 11/1/2013. Defendants shall respond accordingly. Defendants are to file a status report upon a decision on the dispositive motions. No further deadlines are set. A Uniform Pretrial Scheduling Order will not be issued at this time. (mab) (Entered: 10/03/2013)
10/03/2013	<u>33</u>	SCHEDULING ORDER: Based upon the telephonic Conference held today, the Court permits limited discovery directed at identifying potential opt-in plaintiffs and matters of personal jurisdiction. With the exception of this limited discovery and the pending motion to dismiss, all other aspects of the case are held in abeyance. Accordingly, Plaintiffs shall serve their limited discovery demands by November 1, 2013, and Defendants shall respond consistent with the mandates of Rule 26 and 34. Forty-five (45) days after Plaintiffs have received Defendants' production and responses Plaintiffs shall file their motion for conditional certification address to this Court. Additionally, Defendants shall file a status report when Judge Mordue has decided their Motion to Dismiss. Should the parties entered into an agreement as to the conditional class certification, motion to dismiss, and personal jurisdiction a status report shall be filed. SO ORDERED. Signed by Magistrate

		Judge Randolph F. Treece on 10/3/2013. (Treece, Randolph) (Entered: 10/03/2013)
09/24/2013	<u>32</u>	CIVIL CASE MANAGEMENT PLAN <i>executed and proposed solely by Plaintiffs' counsel</i> by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh. (Attachments: # <u>1</u> Exhibit(s) Bolletino Stipulation and Order)(Jacobs, Daniel) (Entered: 09/24/2013)
09/23/2013	<u>31</u>	CIVIL CASE MANAGEMENT PLAN by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Carbo, Charles) (Entered: 09/23/2013)
09/23/2013	<u>30</u>	CERTIFICATE OF SERVICE by Cellular Sales of New York, LLC re <u>29</u> Answer to Amended Complaint (Carbo, Charles) (Entered: 09/23/2013)
09/23/2013	<u>29</u>	ANSWER to <u>19</u> Amended Complaint, by Cellular Sales of New York, LLC. (Carbo, Charles) (Entered: 09/23/2013)
09/23/2013	<u>28</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC re <u>27</u> Amended MOTION to Compel <i>Individual Arbitrations of and to Dismiss or Stay Plaintiff Pratt's and Plaintiff Burrell's Claims</i> (Carbo, Charles) (Entered: 09/23/2013)
09/23/2013	<u>27</u>	Amended MOTION to Compel <i>Individual Arbitrations of and to Dismiss or Stay Plaintiff Pratt's and Plaintiff Burrell's Claims</i> Motion Hearing set for 11/6/2013 10:00 AM in Syracuse before Senior Judge Norman A. Mordue Response to Motion due by 10/21/2013 filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Memorandum of Law, # <u>2</u> Exhibit(s) A, # <u>3</u> Exhibit(s) Unpublished Cases) Motions referred to Randolph F. Treece. (Carbo, Charles) (Entered: 09/23/2013)
09/23/2013	<u>26</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc. re <u>25</u> MOTION to Dismiss for Lack of Personal Jurisdiction <i>Plaintiff's Amended Complaint Under Rule 12(b)(2) of the Federal Rules of Civil Procedure</i> (Carbo, Charles) (Entered: 09/23/2013)
09/23/2013	<u>25</u>	MOTION to Dismiss for Lack of Personal Jurisdiction <i>Plaintiff's Amended Complaint Under Rule 12(b)(2) of the Federal Rules of Civil Procedure</i> Motion Hearing set for 11/6/2013 10:00 AM in Syracuse before Senior Judge Norman A. Mordue Response to Motion due by 10/21/2013 Reply to Response to Motion due by 10/28/2013. filed by Cellular Sales of Knoxville, Inc.. (Attachments: # <u>1</u> Memorandum of Law, # <u>2</u> Exhibit(s) A, # <u>3</u> Exhibit(s) B, # <u>4</u> Exhibit(s) C, # <u>5</u> Exhibit(s) Unpublished Cases 1 of 2, # <u>6</u> Exhibit(s) Unpublished Cases 2 of 2) (Carbo, Charles) (Entered: 09/23/2013)
09/11/2013		TEXT NOTICE: The Rule 16 Initial Conference in this matter is scheduled for 10/3/2013 at 9:00 AM before Magistrate Judge Randolph F. Treece and will be conducted by TELEPHONE. The parties are directed to DIAL IN at 877-336-1839 and use Access Code 6651723 and Security Code 1738 to be connected to the conference call. The parties are directed to submit a proposed Civil Case Management Plan by 9/19/2013. (mab) (Entered: 09/11/2013)
09/10/2013	24	

09/03/2013		TEXT NOTICE of Hearing on Motion. The <u>11</u> MOTION to Dismiss for Lack of Personal Jurisdiction and the <u>13</u> MOTION to Compel are returnable on 10/2/13 before Senior Judge Norman A. Mordue. The Motions are on submit. No appearances. Response to Motions due by 9/16/2013. Reply to Response to the Motions due by 9/23/2013. (jlr) (Entered: 09/03/2013)
08/28/2013		Case reassigned to Senior Judge Norman A. Mordue. (bjw,) (Entered: 08/28/2013)
08/28/2013	<u>17</u>	TEXT ORDER granting <u>6</u> Application for Judge Reassignment due to a related case. Upon review of the application, the Court finds that this case is related to case 1:12-cv-584 and shall therefore be reassigned to the Hon. Norman A. Mordue. The Clerk is directed to reassign this case accordingly. IT IS SO ORDERED by Senior Judge Frederick J. Scullin, Jr on 8/28/2013. (bjw,) (Entered: 08/28/2013)
08/28/2013		CLERK'S CORRECTION OF DOCKET ENTRY as to Dkts 11 and 13: The docket text of these filings has been revised to reflect that the documents filed are MOTIONS before the Court, rather than Notices. (sg) (Entered: 08/28/2013)
08/27/2013	<u>16</u>	CERTIFICATE OF SERVICE by Cellular Sales of New York, LLC re <u>15</u> Answer to Complaint (Carbo, Charles) (Entered: 08/27/2013)
08/27/2013	<u>15</u>	ANSWER to <u>1</u> Complaint, by Cellular Sales of New York, LLC.(Carbo, Charles) (Entered: 08/27/2013)
08/27/2013	<u>14</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC re <u>13</u> Notice (Other), <i>of Motion to Compel Arbitrations of and to Dismiss or Stay Plaintiff Pratt's and Plaintiff Burrell's Claims</i> (Carbo, Charles) (Entered: 08/27/2013)
08/27/2013	<u>13</u>	Motion to Compel Individual Arbitrations of and to Dismiss or Stay Plaintiff Pratt's and Plaintiff Burrell's Claims by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC (Attachments: # <u>1</u> Memorandum of Law, # <u>2</u> Exhibit(s) A, # <u>3</u> Exhibit(s) Unpublished Cases)(Carbo, Charles) Modified on 8/28/2013 (sg). (Entered: 08/27/2013)
08/27/2013	<u>12</u>	CERTIFICATE OF SERVICE by Cellular Sales of Knoxville, Inc. re <u>11</u> Notice (Other), <i>of Motion to Dismiss for Lack of Personal Jurisdiction</i> (Carbo, Charles) (Entered: 08/27/2013)
08/27/2013	<u>11</u>	Motion to Dismiss for Lack of Personal Jurisdiction Under Rule 12(b)(2) of the Federal Rules of Civil Procedure by Cellular Sales of Knoxville, Inc. (Attachments: # <u>1</u> Memorandum of Law, # <u>2</u> Exhibit(s) A, # <u>3</u> Exhibit(s) B, # <u>4</u> Exhibit(s) C, # <u>5</u> Exhibit(s) Unpublished Cases)(Carbo, Charles) Modified on 8/28/2013 (sg). (Entered: 08/27/2013)
08/22/2013	<u>10</u>	ORDER granting <u>8</u> Motion for Limited Admission Pro Hac Vice for Julie R. Offerman, Esq. Signed by Magistrate Judge Randolph F. Treece on 8/22/2013. (mab) (Entered: 08/22/2013)
08/22/2013	<u>9</u>	

		ORDER granting <u>7</u> Motion for Limited Admission Pro Hac Vice for Charles Larry Carobo, III, Esq. Signed by Magistrate Judge Randolph F. Treece on 8/22/2013. (mab) (Entered: 08/22/2013)
08/16/2013	<u>8</u>	MOTION for Limited Admission Pro Hac Vice of Julie R. Offerman Filing fee \$100, receipt number 0206-2658676. filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. Motions referred to Randolph F. Treece. (Dougherty, Joseph) (Entered: 08/16/2013)
08/16/2013	<u>7</u>	MOTION for Limited Admission Pro Hac Vice of Charles Larry Carbo, III Filing fee \$100, receipt number 0206-2658659. filed by Cellular Sales of Knoxville, Inc., Cellular Sales of New York, LLC. Motions referred to Randolph F. Treece. (Dougherty, Joseph) (Entered: 08/16/2013)
08/13/2013	<u>6</u>	Notice of Related Case by William Burrell, Jan P. Holick, Jr, Jason Mack, Justin Moffitt, Steven Moffitt, Timothy M. Pratt, Gurwinder Singh submitted to Judge Frederick J. Scullin . (Jacobs, Daniel) (Entered: 08/13/2013)
07/08/2013	<u>5</u>	WAIVER OF SERVICE Returned Executed by William Burrell, Justin Moffitt, Timothy M. Pratt, Steven Moffitt, Jan P. Holick, Jr, Gurwinder Singh, Jason Mack. Cellular Sales of Knoxville, Inc. waiver sent on 6/28/2013, answer due 8/27/2013. (Jacobs, Daniel) (Entered: 07/08/2013)
07/08/2013	<u>4</u>	WAIVER OF SERVICE Returned Executed by William Burrell, Justin Moffitt, Timothy M. Pratt, Steven Moffitt, Jan P. Holick, Jr, Gurwinder Singh, Jason Mack. Cellular Sales of New York, LLC waiver sent on 6/28/2013, answer due 8/27/2013. (Jacobs, Daniel) (Entered: 07/08/2013)
06/25/2013		Notice re: Compliance with General Order #12: Pursuant to General Order #12, counsel is required to file the <i>Notice of Related Case</i> form as a separate document. Refer to the Court's website: www.nynd.uscourts.gov for further instructions. Counsel may access the fillable form using the following link: www.nynd.uscourts.gov/documents/GO12_withfillablenoticemtd.pdf (cbm,) (Entered: 06/25/2013)
06/25/2013		CLERK'S CORRECTION OF DOCKET ENTRY re <u>2</u> G.O. 25 Filing Order. Modified docket entry to reflect the correct filing date. (dpk) (Entered: 06/25/2013)
06/24/2013	<u>3</u>	Summons Issued as to Cellular Sales of Knoxville, Inc. and Cellular Sales of New York, LLC. (Attachments: # <u>1</u> Summons Issued as to Cellular Sales of Knoxville, LLC)(dpk) (Entered: 06/25/2013)
06/24/2013	<u>2</u>	G.O. 25 FILING ORDER ISSUED: Initial Conference set for 10/3/2013 at 9:00 AM in Albany before Magistrate Judge Randolph F. Treece. Civil Case Management Plan due by 9/19/2013. (dpk) (Entered: 06/25/2013)
06/24/2013	<u>1</u>	COMPLAINT against Cellular Sales of Knoxville, Inc. and Cellular Sales of New York, LLC (Filing fee \$400 receipt number 2593212) filed by William Burrell, Justin Moffitt, Timothy M. Pratt, Steven Moffitt, Jan P. Holick, Jr, Gurwinder Singh and Jason Mack. (Attachments: # <u>1</u> Consent to Join Overtime/Minimum Wage Lawsuit by all Plaintiffs, # <u>2</u> Civil Cover Sheet) (dpk) (Entered: 06/25/2013)